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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. *2009-155*

13 **KAITY LYN ACKLAND**
500 N Street, Apt. 702
14 Sacramento, California 95814

STATEMENT OF ISSUES

15 Applicant/Respondent.

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17 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Statement of Issues solely in her official capacity
20 as the Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
21 Affairs.

22 **Application History**

23 2. On or about October 22, 2008, the Board received an Application for
24 Licensure by Endorsement for a Registered Nurse License from Kaity Lyn Ackland
25 ("Respondent"). On or about October 16, 2008, Respondent certified under penalty of perjury to
26 the truthfulness of all statements, answers, and representations in the application.

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3. Section 480 of the Business and Profession Code ("Code") states, in

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code. . .

(3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

4. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, . . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

5. Section 2762 of the Code states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(Criminal Conviction)**

3 6. Respondent's application is subject to denial under Code sections 2761,
4 subdivision (f), and 480, subdivision (a)(1), in that on or about August 11, 2008, in the case
5 entitled, *State of Florida v. Kaity Lynn Ackland* (Broward County, Florida, Case No.
6 07028334MM10A), Respondent was convicted on her plea of no contest of violating one count
7 of Florida Statute 316.193, subdivision (4)(driving under the influence of alcohol with a level of
8 .20 or higher). Such crime is substantially related to the qualifications, functions and duties of
9 registered nurse.

10 **SECOND CAUSE FOR DENIAL OF APPLICATION**

11 **(Used an Alcoholic Beverage in a Manner Dangerous)**

12 7. Respondent's application is subject to denial under Code section 2761,
13 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
14 subdivisions (b), in that Respondent used an alcoholic beverage in a manner dangerous or
15 injurious to herself, any other person, or the public, as set forth in paragraph 6, above

16 **THIRD CAUSE FOR DENIAL OF APPLICATION**

17 **(Criminal Conviction Involving An Alcoholic Beverage)**

18 8. Respondent's application is subject to denial under Code section 2761,
19 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
20 subdivision (c), in that Respondent was convicted of a crime involving an alcoholic beverage, as
21 set forth in paragraph 6, above.

22 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

23 **(Any Acts by a Licentiate)**

24 9. Respondent's application is subject to denial under Code section 480,
25 subdivision (a)(3), in that Respondent committed acts that if done by a licentiate of the business or
26 profession, would be grounds for suspension or revocation of a license, pursuant to and Code
27 sections 2761, subdivisions (a) and (f), as set forth in paragraph 6, above.


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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Kaity Lyn Ackland for a Registered Nurse License; and,
2. Taking such other and further action as deemed necessary and proper.

DATED: 1/26/09


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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